

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3434

To amend the Public Health Service Act to protect the public from health hazards caused by exposure to environmental tobacco smoke, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 1993

Mr. WAXMAN (for himself, Mr. HANSEN, Mr. BARRETT of Wisconsin, Mr. BEILENSEN, Mr. BROWN of Ohio, Mr. BRYANT, Mrs. COLLINS of Illinois, Mr. DELLUMS, Mr. DURBIN, Mr. FARR of California, Mr. FOGLIETTA, Ms. FURSE, Mr. HUFFINGTON, Mr. JOHNSTON of Florida, Mr. KREIDLER, Mr. LAFALCE, Mr. LEWIS of Georgia, Ms. MARGOLIES-MEZVINSKY, Mr. MARKEY, Mr. MAZZOLI, Mr. McDERMOTT, Ms. McKINNEY, Mr. MEEHAN, Mr. MILLER of California, Mr. OBERSTAR, Ms. PELOSI, Mr. RICHARDSON, Ms. SCHENK, Mrs. SCHROEDER, Mr. SERRANO, Mr. STARK, Mr. SYNAR, Mr. TORRES, Mr. TRAFICANT, Ms. WATERS, and Mr. WYDEN) introduced the following bill; which was referred to the Committee on Energy and Commerce

MARCH 18, 1994

Additional sponsors: Mr. ACKERMAN, Mr. EDWARDS of California, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FILNER, Mr. FROST, Mr. MATSUI, Mr. OWENS, Mr. YATES, Mr. CONYERS, Mr. JACOBS, Mr. JEFFERSON, Mr. NADLER, Mr. BECERRA, Mr. GENE GREEN of Texas, Mr. OLVER, Mr. SANDERS, Ms. VELÁZQUEZ, Mr. GOODLING, Mr. MORAN, Mr. RANGEL, Ms. ESHOO, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MORELLA, Mr. ORTON, Mr. PENNY, Mr. ROMERO-BARCELÓ, Ms. SHEPHERD, and Ms. SLAUGHTER

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## A BILL

To amend the Public Health Service Act to protect the public from health hazards caused by exposure to environmental tobacco smoke, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Smoke-Free Environ-  
5       ment Act of 1993”.

6       **SEC. 2. SMOKE-FREE ENVIRONMENT POLICY.**

7       The Public Health Service Act is amended by adding  
8       the following new title at the end thereof:

9       “TITLE XXVII—SMOKE-FREE ENVIRONMENTS

10      **“SEC. 2701. SMOKE-FREE ENVIRONMENT POLICY.**

11      “(a) POLICY REQUIRED.—In order to protect chil-  
12      dren and adults from cancer, respiratory disease, heart  
13      disease, and other adverse health effects from breathing  
14      environmental tobacco smoke, the responsible entity for  
15      each public facility shall adopt and implement at such fa-  
16      cility a smoke-free environment policy which meets the re-  
17      quirements of subsection (b).

18      “(b) ELEMENTS OF POLICY.—Each smoke-free envi-  
19      ronment policy for a public facility shall—

20              “(1) prohibit the smoking of cigarettes, cigars,  
21              and pipes, and any other combustion of tobacco,  
22              within the facility and on facility property within the  
23              immediate vicinity of the entrance to the facility;  
24              and

1           “(2) post a clear and prominent notice of the  
2       smoking prohibition in appropriate and visible loca-  
3       tions at the public facility.

4       The policy may provide an exception to the prohibition  
5       specified in paragraph (1) for one or more specially des-  
6       ignated smoking areas within a public facility if such area  
7       or areas meet the requirements of subsection (c).

8           “(c) SPECIALLY DESIGNATED SMOKING AREAS.—A  
9       specially designated smoking area meets the requirements  
10      of this subsection if:

11           “(1) The area is ventilated in accordance with  
12       specifications promulgated by the Administrator that  
13       insure that air from the area is directly exhausted  
14       to the outside and does not recirculate or drift to  
15       other areas within the public facility.

16           “(2) Nonsmoking individuals do not have to  
17       enter the area for any purpose.

18   **“SEC. 2702. CITIZEN ACTIONS.**

19           “(a) IN GENERAL.—An action may be brought to en-  
20       force the requirements of this title by any aggrieved per-  
21       son, any State or local government agency, or the Admin-  
22       istrator.

23           “(b) VENUE.—Any action to enforce this title may  
24       be brought in any United States district court for the dis-  
25       trict in which the defendant resides or is doing business

1 to enjoin any violation of this title or to impose a civil  
2 penalty for any such violation in the amount of not more  
3 than \$5,000 per day of violation. The district courts shall  
4 have jurisdiction, without regard to the amount in con-  
5 troversy or the citizenship of the parties, to enforce this  
6 title and to impose civil penalties under this title.

7       “(c) NOTICE.—An aggrieved person shall give any al-  
8 leged violator notice of at least 60 days prior to commenc-  
9 ing an action under this section. No action may be com-  
10 menced by an aggrieved person under this section if such  
11 alleged violator complies with the requirements of this title  
12 within such 60-day period and thereafter.

13       “(d) COSTS.—The court, in issuing any final order  
14 in any action brought pursuant to this section, may award  
15 costs of litigation (including reasonable attorney and ex-  
16 pert witness fees) to any prevailing plaintiff, whenever the  
17 court determines such award is appropriate.

18       “(e) PENALTIES.—The court in any action under this  
19 section to apply civil penalties shall have discretion to  
20 order that such civil penalties be used for projects which  
21 further the policies of this title. The court shall obtain the  
22 view of the Administrator in exercising such discretion and  
23 selecting any such projects.

1 **“SEC. 2703. PREEMPTION.**

2 “Nothing in this title shall preempt or otherwise af-  
3 fect any other Federal, State or local law which provides  
4 protection from health hazards from environmental to-  
5 bacco smoke.

6 **“SEC. 2704. REGULATIONS.**

7 “The Administrator is authorized to promulgate such  
8 regulations as the Administrator deems necessary to carry  
9 out this title.

10 **“SEC. 2705. EFFECTIVE DATE.**

11 “The requirements of this title shall take effect on  
12 the date one year after the date of the enactment of the  
13 Smoke-Free Environment Act of 1993.

14 **“SEC. 2706. DEFINITIONS.**

15 “As used in this title—

16 “(1) the term ‘Administrator’ means the Ad-  
17 ministrator of the Environmental Protection Agency;

18 “(2) the term ‘public facility’ means any build-  
19 ing regularly entered by 10 or more individuals at  
20 least one day per week, including any such building  
21 owned by or leased to a Federal, State, or local gov-  
22 ernment entity. Such term shall not include any  
23 building or portion thereof regularly used for resi-  
24 dential purposes; and

25 “(3) the term ‘responsible entity’ means, with  
26 respect to any public facility, the owner of such facil-

1       ity, except that in the case of any such facility or  
2       portion thereof which is leased, such term means the  
3       lessee.’’.

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